

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7373

Joint Petition of Vermont Electric Power Company, Inc.,)
Vermont Transco, LLC, and Central Vermont Public)
Service Corporation for a certificate of public good,)
pursuant to 30 V.S.A. Section 248, authorizing the)
construction of the Southern Loop Transmission)
Upgrade Project)

Order entered: 8/27/2008

PROCEDURAL ORDER RE: CERTAIN MOTIONS, REQUESTS, RESPONSES AND COMMENTS
INVOLVING TOWNS OF BROOKLINE AND DUMMERSTON

_____ This procedural order seeks to determine the status and address some of the issues raised by filings that the Public Service Board ("Board") has received from various parties in recent weeks relating to the Town of Brookline and the Town Dummerston. The filings relevant to this procedural order include:

- (i) A letter captioned "Notice and Request for Sanctions" filed on July 3, 2008 ("Request for Investigation"), from Thomas W. Clynes, then the representative for the Town of Brookline in this proceeding, requesting, among other things, an investigation of alleged improprieties by an officer of Vermont Electric Power Company, Inc. (together with Vermont Transco, LLC, "VELCO");
- (ii) A memorandum from the Clerk of the Board, dated July 7, communicating the Board's request for responses and comments on the Request for Investigation;
- (iii) VELCO's Response to the Request for Investigation filed on July 14, as materially corrected by a filing on July 16 ("VELCO Response"), which included requests to disqualify Mr. Clynes from appearing in this proceeding and to strike the Request for Investigation;
- (iv) Comments on the Request for Investigation filed by Central Vermont Public Service Corporation on July 16;
- (v) Comments on the Request for Investigation filed by the Vermont Department of Public Service ("Department") on July 22;

(vi) The Town of Brookline's reply to VELCO's Response filed by Mr. Clynes on July 22 ("Brookline Reply");

(vii) A suspension of opposition to the proposed project filed by Mr. Clynes on behalf of the Town of Brookline on July 29;

(viii) A letter filed by VELCO on August 6 in further support of the VELCO Response;

(ix) A letter filed by the Department on August 8 requesting a hearing to determine the authority of Mr. Clynes to represent the Town of Brookline and Cary Gaunt to represent the Town of Dummerston in this docket and to determine the towns' intentions regarding their prefiled testimony;

(x) A letter filed on August 11 by Joyce Meehl, the Chair of the Town of Brookline Selectboard, transmitting a copy of a letter to Mr. Clynes from the Selectboard temporarily suspending Mr. Clynes from his appointment as representative of the town in this docket;

(xi) An email submitted on August 14 by Ms. Meehl transmitting the resignation of Mr. Clynes as the designated representative for the Town of Brookline in this docket;¹ and

(xii) A letter filed on August 18 by Andrew MacFarland, the Vice-chair of the Town of Dummerston Selectboard, in response to the Department's letter of August 8, which clarified the town's intention to remain an intervener in this docket and to introduce its prefiled testimony. Enclosed with the letter was a notice of appearance for Mr. MacFarland and Ms. Gaunt as the representatives for the town. Mr. MacFarland also enclosed the town's responses to Petitioners' Second Set of Discovery Requests and copies of minutes of meetings of the town's Selectboard and Energy Committee.

Based on these filings, we view the status of these matters as follows:

1. In the Brookline Reply, the Town of Brookline withdrew any request for action under its Request for Investigation (other than a request we remind the parties to conduct themselves in a respectful and professional manner). On page 5 of the Brookline Reply, Mr. Clynes includes the following statement:

1. Various documents submitted to us in this proceeding do not appear to have been provided to all the parties on the service list. We remind all of the parties of their obligations in this regard.

Since Velco has satisfactorily demonstrated that there was no improper attempt to influence a municipal official, we do not call for the Board to take any further action.

The Brookline Reply would appear to moot VELCO's request to strike the Request for Investigation included in the VELCO Response. The resignation of Mr. Clynes on August 14 as the representative of the Town of Brookline in this proceeding would appear to moot VELCO's request to disqualify Mr. Clynes from appearing in this proceeding.

2. It remains unclear to us whether the Town of Brookline intends to designate another person to represent its interests or to withdraw entirely as an intervenor in this docket. The Town of Brookline also has not indicated whether it plans to withdraw its sponsorship of the prefiled testimony (filed jointly with the Town of Dummerston on June 10) or any of the requests or responses it has submitted in discovery to date. We note that the filing by Mr. Clynes on July 29 indicates that the Town of Brookline has suspended its participation in this docket (although, as discussed below, this appears impractical).

3. In its letter of August 6, VELCO refers to the "pending motion filed by Mr. Clynes" which appears to be a reference to the Request for Investigation, which the Town of Brookline appears effectively to have withdrawn on July 22. VELCO also repeats its request that we grant the relief sought by it in the VELCO Response. It is unclear to us in light of the resignation of Mr. Clynes on August 14 whether VELCO intends to continue to pursue this matter.

4. The Town of Dummerston has clarified its position in this proceeding. It intends to remain a party in this docket and to introduce its prefiled testimony and has submitted an appearance to designate Mr. MacFarland and Ms. Gaunt as its representatives in this proceeding.

In light of the status of these matters, and after consideration of the parties' filings, we direct the parties as follows.

The Town of Brookline shall advise us by September 5, 2008, as to the status of its continued participation in this docket. The town may withdraw as a party, but suspending its participation is not a viable option as a party must assume all obligations of a party and cannot selectively choose the times when it will and will not participate in a proceeding. (For example, a party can't decline to respond to discovery requests or motions directed at it on the basis it has suspended its participation.) If the town does not intend to withdraw from the proceeding as an intervenor, it must designate a new representative, file a notice of appearance by the new representative, and advise us as to its intentions with respect to the prefiled testimony and discovery requests and responses it has submitted to date.

VELCO shall advise us by September 5, 2008, if it intends to continue to pursue any of its requests for relief in the VELCO Response.

If any party wishes to make any further comment, motion or request with respect to the matters addressed in this Order, they should do so by September 5, 2008. Responses, if any, to any comment, request or motion filed in response to this Order will be due by September 12, 2008.

SO ORDERED.

Dated at Montpelier, Vermont, this 27th day of August, 2008.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 27, 2008

ATTEST: s/Susan M. Hudson

Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)